Reg. No. KRNA—25.

Karnataka Gazette

PUBLISHED BY AUTHORITY

(EXTRAORDINARY)

PART IV—2-A

BANGALORE, SATURDAY, JULY 26, 1975. (SHRAVANA 4, SAKA ERA 1897)

No. 2040

KARNATAKA LEGISLATIVE COUNCIL

THIRTY EIGHTH SESSION

NOTIFICATION

No. 4189—L A., Bangalore, dated 26th July 1975.

Under Rule 63 of the Rules of Procedure and Conduct of Business in the *Karnataka* Legislative Council the Chairman has been pleased to order the publication in the *Karnataka Gazette* of **The Karnataka Rent Control (Amendment) Bill, 1975** together with the Statement of Objects and Reasons relating thereto and the Bill and the Statement of Objects and Reasons are accordingly published for general information.

THE KARNATAKA RENT CONTROL (AMENDMENT) BILL, 1975.

(L.C. Bill No. 4 of 1975)

A Bill further to amend the Karnataka Rent Control Act, 1961.

Whereas it is expedient further to amend the Karnataka Rent Control Act, 1961 (Karnataka Act 22 of 1961) for the purposes hereinafter appearing;

Be it enacted by the Karnataka State Legislature in the Twenty-sixth Year of the Republic of India as follows:—

1. **Short title and commencement.**—(1) This Act may be called the Karnataka Rent Control (Amendment) Act 1975.

(2) It shall be deemed to have come into force on the twenty-second day of May, 1975.

2. **Amendment of section 3.**—In section 3 of the Karnataka Rent Control Act, 1961 (Karnataka Act 22 of 1961) (hereinafter referred to as the principal Act), for cluase (d), the following clause shall be substituted, namely:—

"(d) 'court' means,—

(i) in respect of the area comprised within the City of Bangalore; and

(ii) in such other areas as the State Government may, in consultation with the High Court, by notification specify, the court of Civil Judge having territorial jurisdiction in such area;

(iii) in respect of areas other than those referred to in sub-clauses (i) and (ii), the court of Munsiff having territorial jurisdiction in such area."

3. **Amendment of section 29.**—In section 29 of the principal Act, in sub-section (1), for the portion beginning with the words "an appeal or revision petition" and ending with the words "an order passed by the District Judge on

appeal as the case may be", the words and figures "a revision petition under section 50 against an order made by the court on application under section 21" shall be substituted.

4. Amendment of section 48.—In section 48 of the principal Act,—

(i) sub-section (1) shall be omitted;

(ii) for sub-sections (5) and (6), the following sub-sections shall be substituted, namely :—

"(5) The Appellate Authority shall send for the records of the case from the controller and after giving the parties an opportunity of being heard and if necessary after making such further enquiry as it thinks fit either itself or through the controller shall decide the appeal.

(6) An order of the court or the Controller shall, subject to the decision of the District Judge or the High Court under section 50 or of the relevant appellate authority under this Act, be final and shall not be liable to be called in question in any court of law whether in a suit or other proceeding or by way of appeal or revision."

5. Amendment of section 49.—In section 49 of the principal Act,—

(i) for the words "before a court, a controller or the District Judge shall be in the discretion of the Court, the controller or the District Judge", the words "before a court or Controller" shall be substituted;

(ii) the Explanation shall be omitted.

6. Substitution of new section for section 50.—For section 50 of the principal Act, the following section shall be substituted, namely :—

"**50. Revision.**—(1) The High Court may, at any time call for and examine any order passed or proceeding taken by the Court of Civil Judge under this Act or any order passed by the Controller under sections 14, 15, 16 or 17 for the purpose of satisfying itself as to the legality or correctness of such order or proceeding and may pass such order in reference thereto as it thinks fit.

(2) The District Judge may, at any time call for and examine any order passed or proceeding taken by the court of Munsiff referred to in sub-clause (iii) of clause (d) of section 3 for the purpose of satisfying himself as to the legality or correctness of such order or proceeding and may pass such order in reference thereto as he thinks fit. The order of the District Judge shall be final.

(3) The costs of and incidental to all proceedings before the High Court or the District Judge shall be in the discretion of the High Court or the District Judge, as the case may be."

7. Amendment of section 59.—In section 59 of the principal Act in clause (a) of sub-section (2), for the words " or other appellate authority ", the words " or an appellate authority " shall be substituted.

8. Disposal of pending proceedings.—(1) As from the date of coming into force of this Act or upon the issue of a notification under sub-clause (ii) of clause (d) of section 3 of the principal Act as amended by this Act, the court of Munsiff within the jurisdiction of the court of Civil Judge specified in sub-clause (i) or sub-clause (ii) as the case may be, of clause (d) of the said section 3 shall cease to have jurisdiction to try cases under the principal Act and all applications or proceedings in such court of Munsiff shall stand transferred to the court of such Civil Judge and shall be disposed of by the said court of Civil Judge as if they had been instituted or commenced before it.

(2) Notwithstanding the omision of section 48 of the principal Act, appeals pending on the date of commencement of this Act before a District Judge shall be heard and decided by the District Judge as if the said section had not been omitteed and the provisions of section 49 of the principal Act as it stood before the commencement of this Act shall apply to such appeals.

(3) Notwithstanding the substitution of new section for section 50 of the principal Act, revision petitions pending in the High Court on the date of commencement of this Act shall be heard and decided by the High Court as if the

said section had not been substituted and the provisions of section 50 of the principal Act as it stood before the commencement of this Act shall apply to such petitions.

9. Provisions in respect of certain cases.—As from the date of commencement of this Act,—

(i) no appeal shall lie to the District Judge against an order or decree of any court of Controller under the principal Act; and

(ii) any person who but for the omission of section 49 of the principal Act could have filed an appeal to the District Judge, may within sixty days from the date of commencement of this Act prefer a petition,—

(a) to the High Court against the order of the Controller under sections 14, 15, 16 or 17;

(b) to the District Judge against the order of the Court of Munsiff,

and the High Court or the District Judge shall dispose of such petition as if it is a revision petition under sub-section (1) or sub-section (2) of section 50 as the case may be, of the principal Act as amended by this Act.

10. Section 3 of the Karnataka Ordinance No. 3 of 1975 not to have effect.—Section 48 of the principal Act omitted by section 3 of the Karnataka Rent Control (Amendment) Ordinance, 1975 (Karnataka Ordinance No. 3 of 1975) shall be deemed never to have been omitted and the provisions of the said section shall, with effect from and on the commencement of this Act be deemed to continue to be in force subject to the modifications made by section 4 of this Act.

11. Repeal of Ordinance No. 3 of 1975.—The Karnataka Rent Control (Amendment) Ordinance, 1975 (Karnataka Ordinance No. 3 of 1975) is hereby repealed:

Provided that anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

Statement of Objects and Reasons

A large number of cases under the Karnataka Rent Control Act pertaining to tenancy termination, rent-recovery etc., (but not in respect of fair rent or accommodation control) are pending for over two years in the Cities of Bangalore, Mysore, Hubli, Mangalore and Belgaum. The delay in the disposal of the cases by the Courts of Munsiffs is stated to be due to the fact that there are two tiers of appeal as well as the revisional jurisdiction of the High Court. The courts are at the same time preoccupied with the disposal of complicated cases relating to immoveable properties.

In order to avoid such delay in the cities, the jurisdiction to entertain the above-mentioned class of House Rent Control cases has to be conferred on the Courts of the Civil Judge in the City of Bangalore and the Courts of Munsiff in other cities. Simultaneously, provision for appeals in the H.R.C. Act, to the courts of District Judges has to be removed, as such removal will shorten the life of rent control litigation. Instead, revision petitions can be filed from the courts of Munsiffs to District Judges in other cities and from the courts of District Judges direct to the High Court in the City of Bangalore. The Revision Petitions now coming before the High Court are virtually second appeals. By eliminating the first appeal, a large segment of time and much expense to the litigants will be saved. Further, the Revision Petitions to the High Court or District Courts are not very expensive.

The High Court which has been consulted has also opined that the wording of the revisional jurisdiction under the H.R.C. Act is wide enough to go not the questions of not merely jurisdiction of law, but also of facts. The greatest benefit of the proposed amendment is that high-level consideration to a case and to the aggrieved party will be given in one final forum instead of making him traverse one or two intermediate courts of lower level.

Explanatory Statement under rule 67(1) of the Rules of Procedure and Conduct of Business in the Karnataka Legislative Council.

It was found expedient further to amend the Karnataka Rent Control Act, 1961 (Karnataka Act 22 of 1961) for the purposes appearing in the Statement of Object and Reasons. And as neither House of the State Legislature was in session and the Governor of Karnataka was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Karnataka Rent Control Act, 1961 (Karnataka Act 22 of 1961) ; in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of nIdia, the Governor of Karnataka promulgated the Ordinance, namely, Karnataka Rent Control (Amendment) Ordinance, 1975.

N. HUTCHAMASTI GOWDA.

Te. HANUMANTHAPPA,
Secretary

ANNEXURE

Extract from the Karnataka Rent Control Act, 1961

* * *

3. Definitions.—

* * *

(d) 'court' means in respect of any local area, the court of the Munisiff having territorial jurisdiction in any such area.

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14. Fixation of fair rent, etc.—(1) The landlord or tenant of any building, other than a building in respect of which the fair rent has been fixed either before or after the coming into operation of this Act, may make an application to the Controller for fixing the fair rent of the building,—

(a) in the case of any building which was let before the date of coming into operation of this part, within one year from such date;

(b) in the case of any building let after the date of coming into operation of this Part,

(i) where the application is made by the landlord, within one year from the date on which the building was let to the tenant against whom the application is made;

(ii) where the application is made by the tenant within one year from the date on which the building was let to that tenant:

Provided that the Controller may entertain the application after the expiry of the said period of one year, if he is satisfied that the applicant was prevented by sufficient cause from filing the application in time.

(2) On receipt of an application under sub-section (1), the Controller shall, after holding such inquiry as he thinks fit, fix the fair rent for such building. On fixing the fair rent for any building

part of which has been lawfully sub-let, the Controller may also fix the fair rent of the part sub-let.

(3) In fixing the fair rent under this section the Controller shall have due regard—

(a) to the prevailing rates of rent in the locality for the same or similar accommodation in similar circumstances during the twelve months prior to the first day of April 1947

(b) to the rental value as entered in the property tax assessment book of the local authority concerned relating to the period mentioned in clause (a);

(c) to the circumstances of the case, including any amount paid by the tenant by way of premium or any other like sum in addition to rent after the first day of April 1947.

(4) In fixing the fair rent of a residential building the Controller may allow—

(i) if the rate of rent or rental value referred to in sub-section (3) does not exceed fifty rupees per mensem, anincrease not exceeding twenty-five per cent on such rate or rental value;

(ii) if the rate of rent or rental value exceeds fifty rupees per mensem, an increase not exceeding fifty per cent of such rate or rental value.

Explanation.—For purposes of this section 'residential building' includes building let out for the purpose of a public hospital, an educational institution, a public library, reading room or orphanage.

(5) In fixing the fair rent of a non-residential building, the Controller may allow—

(i) if the rate of rent or rental value referred in sub-section (3), does not exceed fifty rupees, an increase not exceeding fifty per cent of such rate or rental value;

(ii) if the rate of rent or rental value exceeds fifty rupees per mensem, an increase not exceeding one hundred per cent of such rate or rental value.

(6) In fixing the fair rent of a building which has been constructed after the first day of April 1947, the Controller may take into consideration the rental value of the building as entered in the property

tax assessment book of the local authority for the year in which the building was constructed :

Provided that where no such records are avaiilable, the Controller may fix the fair rent calculated on the basis of six per cent per annum of the aggregate amount of the reasonable cost of construction and the market price of the land comprised in the building on the date of the commencement of the construction.

(7) In fixing the fair rent of any building under this section, the Controller shall fix the fair rent thereof in an unfurnished state and may also determine an additional charge to be payable on accout of any fittings or furniture supplied by the landlord.

(8) In fixing the fair rent of any building under this section, he Controller shall specify a date from which the fair rent so fixed shall be deemed to have effect :

Provided that in no case shall the date be earlier than the date of fitting of the application for the fixation of the fair rent.

(9) No tenant shall, notwithstanding any agreement to the contrary, be liable to pay to his landlord for the occupation of any building any amount in excess of the fair rent of the building, unless such amount is a lawful increase of the fair rent in accordance with the provisions of this Act..

(10) Subject to the provisions of sub-section (9), any agreement for the payment of rent in excess of the fair rent shall be null and void and shall be construed as if it were an agreement for the payment of the fair rent.

15. Restriction on sale or hire of furniture in any house let to a tenant.—(1) No person shall make the purchase or hire of any furniture in any house, a condition of the grant, renewal or continuance of a tenancy of such house and no person shall sell or hire the furniture in any house of which he is the landlord to the tenant of such house, except under a permit in the prescribed form from the Controller and such permit shall not be given unless the price or hire is reasonable.

(2) Any person who contravenes the provisions of sub-section (1) shall, on conviction, be punished with fine which may extend to one thousand rupees.

16. **Lawful increase of or reduction in fair rent in what cases admissible.**—(1) When the fair rent of a building has been fixed no further increase in such fair rent shall be permissible except in cases where some addition, improvement, or structural alteration has been carried out at the landlord's expense other than tenantable repairs necessary or usual for such building and if the building is then in the occupation of a tenant, at the request of such tenant :

Provided that the increase in fair rent under this sub-section shall not exceed six per centum per annum on the cost of such addition, improvement or alteration, and it shall not be chargeable until such addition, improvement or alteration has been completed.

(2) Notwithstanding anything contained in sub-section (1), where the cost of repairs effected in pursuance of orders of the Court under sub-section (3) of section 144, exceeds one-sixth of the annual rent of a building, such excess shall, for purpose of sub-section (1), be deemed to be expense incurred by the landlord in respect of an addition, improvement or structural alteration of the building in respect of which the landlord is entitled to increase of the fair rent.

(3) Where after the fair rent of a building has been fixed there is a decrease or diminution in the accommodation or amenities provided, the tenant may claim a reduction in the fair rent as so fixed.

(4) Any dispute between the landlord and the tenant in regard to any increase or reduction claimed under this section, shall be decided by the Controller.

17. **Increase of rent where tax or cess is increased.**—(1) Where the rate of tax or cess payable by the landlord in respect of any building to a local authority is enhanced the landlord shall be entitled to claim such excess from the tenant in addition to the rent payable for the building :

Provided that such excess shall not be recoverable in so far as it has resulted from an increase of rent in respect of the building.

(2) Any dispute between the landlord and the tenant in regard to any increase claimed under sub-section (1) shall be decided by the Controller.

29. Deposit and payment of rent during the pendency of proceedings for eviction.—(1) No tenant against whom an application for eviction has been made by a landlord under section 21, shall be entitled to contest the application before the Court under that section or to prefer or prosecute an appeal or revision petition under section 48 or section 50 against any order made by the Court on an application under section 21 or an order passed by the District Judge on appeal, as the case may be, unless he has paid or pays to the landlord or deposits with the court or the District Judge or the High Court, as the case may be, all arrears of rent due in respect of the premises up to the date of payment or deposits and continues to pay or to deposit any rent which may subsequently become due in respect of the premises at the rate at which it was last paid or agreed to be paid, untill the termination of the proceedings before the Court or the District Judge or the High Court, as the case may be.

* * *

48. Appeals.—(1) Notwithstanding anything contained in any law for the time being in force, every person aggrieved by an order under section 14, section 16, section 17 or section 21, passed by the Controller or the Court, may within thirty days from the date of the order, prefer an appeal in writing to the District Judge having jurisdiction over the area in which the premises are situate.

(2) In computing the period specified in this Act for filing appeals the time taken to obtain certified copies of the order appealed against shall be excluded.

(3) The provisions of section 5 of the Indian Limitation Act, 1908, shall be applicable to appeals under this Act.

(4) On an appeal being preferred under this Act, the appellate authority may order stay of further proceedings in the matter pending decision on the appeal.

(5) The appellate authority shall send for the records of the case from the Court or the Controller, as the case may be, and after giving the parties an opportunity of being heard and, if necessary, after making such further enquiry as it thinks fit, either itself or through the Court or the Controller, as the case may be, shall decide the appeal.

Explanation.—The District Judge may, while confirming the order of eviction passed by the court, grant extension of time to the tenant for putting the landlord in possession of the building.

(6) Subject to any decision of the High Court under section 50 the decision of the District Judge shall be final; and an order of the Court or the Controller shall, subject to the decision of the relevant appellate authority under this Act, or of the High Court under section 50, be final and shall not be liable to be called in question in any court of law whether in a suit or other proceedings or by way of appeal or revision.

49. Costs.—Subject to such conditions and limitations, if any, as may be prescribed, the cost of, and incidental to all proceedings before the court, the Controller as the District Judge shall be in the discretion of the Court, Controller or the District Judge which or who shall have full power to determine by whom or out of what property and to what extent such costs are to be paid, and to give all necessary directions for the purpose.

Explanation.—The District Judge may set aside or vary any order passed by the Court or the Controller in regard to the costs of, and incidental to, the proceedings before him.

50. Revision by the High Court.—(1) The High Court may, at any time, call for and examine—

(i) the records relating to any decision given or proceedings taken by the District Judge;

(ii) any order passed or proceeding taken by the Court under this Act or any order passed by the Controller under section 14, section 15, or section 16, for the purpose of satisfying itself as to the legality or correctness of such decision, order or proceeding and may pass such order in reference thereto as it thinks fit;

(2) The costs of, and incidental to, all proceedings before the High Court shall be in its discretion.

59. Power to make rules.—(1) The State Government may, subject to the condition of previous publication, by notification, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the procedure to be followed by the Controller, the Court, the District Judge or other appellate Authority in the performance of their functions under this Act;

(b) the manner in which intimation, notices and orders under this Act shall be given or served;

(c) setting aside **ex-parte** orders passed under this Act and the time within which applications for setting aside such orders shall be made;

(d) applications for making legal representatives of deceased persons parties to proceedings under this Act and the time within which such applications, shall be preferred;

(e) the levy of tee in respect of applications, petitions certificates, appeals and processes under this Act;

(f) the manner in which enquiries shall be made summarily under sub-section (2) of section 40.

Printed by the Director of Printing, Sty. & Publications at the Govt. Press, B'lore